



**CITY OF LODI  
COUNCIL COMMUNICATION**

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**AGENDA TITLE:** Introduce an Ordinance Repealing Lodi Municipal Code Chapter 2.44.030 in its entirety relating to the Maximum Age of City Employees

**MEETING DATE:** June 1, 2005 City Council Meeting

**PREPARED BY:** Janice D. Magdich, Deputy City Attorney

**RECOMMENDED ACTION:** That the City Council introduce an Ordinance repealing Lodi Municipal Code Chapter 2.44.030 in its entirety relating to the maximum age of City employees.

**BACKGROUND INFORMATION:** Chapter 2.44.030 of the Lodi Municipal Code outlines the procedures to be followed for the termination of City employees who attain the age of seventy (70) years. Although not contrary to the California Fair Employment and Housing Act (FEHA), which generally prohibits involuntary retirement before the age of seventy (70), it is the position of the City Attorney's office that no person employed in service to the City should be dismissed from employment solely on the basis of attaining their seventieth (70<sup>th</sup>) birthday. Retirement should be a matter of voluntary choice not a requirement. Termination of employment may be based on a **loss** of skill, competence or productivity, but not upon attainment of an arbitrarily selected age. Therefore, it is requested that the City Council take the recommended action.

**FUNDING:** None.

**FISCAL IMPACT:** N/A

  
\_\_\_\_\_  
Janice D. Magdich  
Deputy City Attorney

APPROVED:   
\_\_\_\_\_  
Blair King, City Manager

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI  
AMENDING LODI MUNICIPAL CODE TITLE 2 - ADMINISTRATION AND  
PERSONNEL CHAPTER 2.44 BY REPEALING IN ITS ENTIRETY  
SECTION 2.44.030 RELATING TO MAXIMUM AGE

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Title 2 "Administration and Personnel" Chapter 2.44 is hereby amended by repealing Section 2.44.030 – Maximum Age in its entirety.

Section 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2005.

Attest:

SUSAN J. BLACKSTON  
City Clerk

\_\_\_\_\_  
JOHN BECKMAN  
Mayor

State of California  
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held June 1, 2005, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. \_\_\_\_ was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON  
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER  
City Attorney